

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Sections)
74.1231, 74.1232, 74.1233 and 74.1284)
of the Commission's Rules)

RM-9419

To: The Commission

REPLY COMMENTS OF JACOR COMMUNICATIONS, INC.

Jacor Communications, Inc. ("Jacor"), pursuant to Section 1.405 of the Commission's Rules, hereby submits these Reply Comments in response to several comments to the Petition for Rule Making (the "Petition") of The American Community AM Broadcasters Association ("ACAMBA"). 1/ In the Comments, a number of parties, including the National Association of Broadcasters ("NAB"), urged the Commission to deny the Petition. Because these and other comments recognize the danger that the elimination of the prohibition against AM stations simulcasting on FM translators (the "Proposal") would pose to the radio industry in general, Jacor again requests that the Commission summarily refuse the Petition.

Jacor's initial Comments ("Jacor Comments") set forth a number of reasons that the Proposal cannot be adopted. First, the Proposal would undermine Commission policies to reduce interference in the AM band, protect the FM band from additional interference, and to expend fewer resources to oversee new translators or other inefficient uses of spectrum. The Commission has rejected

1/ See Public Notice, DA 98-2527 (released Dec. 10, 1998).

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“split frequency” proposals comparable to the Petition in prior proceedings because of similar, sensible concerns. For instance, in the *AM Interference Reduction* proceeding, the Commission saw no reason to amend its rules in order to enable AM stations to operate on two frequencies, one during the day and one at night, even though, theoretically at least, this split-frequency proposal would have resulted in such an AM station using only one AM frequency at any one time. ^{2/} In this regard, the current Proposal is even worse than the proposal already rejected in the *AM Interference Reduction* proceeding in that it would result in an AM station operating in the AM band and the FM band, thus causing new interference (and spectral inefficiency) in the FM band without decreasing interference in the AM band. Accordingly, the Commission should be even less willing to adopt the Petition than it was to adopt the split-frequency proposal.

Second, the instant Proposal would delay, impede or prevent the proposed transition of radio to digital broadcasting by further encumbering both the AM and FM bands and by further increasing the likelihood of interference during any transition to digital operation. As Jacor explained in its Comments, the Commission, at this time, cannot afford to adopt any proposal that might delay or preclude the implementation of digital broadcasts. The Commission should be especially reluctant to accept a proposal that would result in more radio

^{2/} See *Report & Order, Review of Technical Assignment Criteria for the AM Broadcast Service*, MM Docket No. 87-267, 6 FCC Rcd 6273, 6301-02 (1991) (the “*AM Interference Reduction Order*”), *aff’d on reconsideration*, 8 FCC Rcd 3250 (1993) (“*AM Interference Reduction Reconsideration*”).

interference since the most promising form of digital radio -- the proposed in-band, on-channel system -- appears highly susceptible to adjacent channel interference.

Other comments echoed these positions. For example, the NAB Comments reminded the Commission that it should not adopt the Petition lest it risk endangering the transition to digital radio. Rather than spend additional Commission resources on the Petition, NAB asked the Commission to focus on more critical proceedings. NAB Comments at 1-2.

Individual commenters likewise opposed the Petition. REC Networks, like NAB and Jacor, protested the timing of the Petition in light of other pending proceedings. REC Comments at 2. REC Networks also underscored that fundamental fairness should cause the Commission to deny the Petition. As REC noted, AM daytime broadcasters knew their circumstances “when they were issued their licenses.” *Id.* The Commission should not risk hindering the entire radio industry’s transition to digital or to increase the likelihood of AM *and* FM interference simply to benefit this small group of licensees.

Of the comments that supported the Petition, none countered the clear reasons that Jacor offered for its rejection. None disputed that the Petition would contradict Commission’s policies seeking to reduce the stress currently placed on the AM band. 3/ None demonstrated that the Proposal would lead to more small

3/ In fact, such comments largely ignore the Commission’s stated objectives to reduce interference in the AM band. For example, one of the two sets of comments signed by Bryan Smeathers, President of the Petitioner and of WMTA AM 1380, Inc., blames the slight reduction in the number of AM stations since 1996 on the lack of FM translators and other regulatory failures. What these comments fail to

AM stations instituting the effective sales operations or the compelling programming that would enable them to prosper. None proved that the Proposal would not contribute to FM congestion and additional real-world interference to full-power FM licensees. ^{4/} Finally, none questioned that any such additional interference would be only more prolonged as the Commission would lack the resources to investigate and resolve the larger number of interference complaints caused by the proliferation of fill-in translators.

Rather, the comments supporting the Petition stem from the AM licensees that would benefit from the Petition (or, in some cases, a few listeners or employees) and typically address only a single station. Such scattered, largely anecdotal support cannot override the Commission's clear obligation to the rest of the radio industry to safeguard the integrity of the AM and FM bands, and to focus its limited resources on proceedings that would benefit the future of radio as a whole.

note, however, is that a number of AM stations actually have disappeared in order to benefit the entire AM band through interference reduction, as the Commission expressly intended. *See AM Interference Reduction Reconsideration* at ¶ 1. Accordingly, pursuant to the Commission's established objectives, a reduction in the number of AM stations is a public interest benefit, and surely not a reason to adopt a Proposal that would encourage further interference and inefficient use of spectrum.

^{4/} It is not surprising that the comments in support of the Petition are not concerned with the effect the proposal will have on the FM band. As the Petition explained, its proposed rule changes would benefit only AM licensees that did not own a nearby FM station. *See* Petition at 4. Accordingly, the parties supporting the Proposal have no reason to fear that it will lead to worse FM interference in their communities.

For the foregoing reasons, the Commission should dismiss or deny the
Petition.

Respectfully submitted,

**JACOR
COMMUNICATIONS, INC.**

By

A handwritten signature in dark ink, appearing to read 'W. P. Suffa', is written over a horizontal line.

William P. Suffa
Vice President

February 25, 1999

CERTIFICATE OF SERVICE

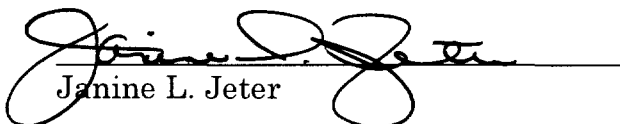
I hereby certify that copies of the foregoing Reply Comments were mailed, postage prepaid, this 25th day of February, 1999 to:

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